

## PATIENT RIGHTS FOR VICTIMS

### of Sexual Assault, Human Trafficking Involving a Commercial Sex Act, or Child Sexual Abuse

Pursuant to Wis. Stat. § 50.378(4)(c), the Department of Health Services created this form to be used by hospitals that provide emergency services to victims of sexual assault, human trafficking involving a commercial sex act, or child sexual abuse. This form addresses the rights of hospital patients who are victims to receive information and services identified by The Victim Accompaniment Law (2015 Wisconsin Act 351) and by the requirements of Wis. Stat. § 50.375 (effective March 28, 2008) pertaining to emergency contraception.

#### Right to be Accompanied by a Victim Advocate

The Victim Accompaniment Law, with some exceptions, gives survivors of sexual assault, human trafficking involving a commercial sex act, or child sexual abuse the right to be accompanied, if they so choose, by a victim advocate during hospital exams and consultations related to the crime and during law enforcement interviews and other criminal justice proceedings.

A victim advocate is a person who works or volunteers at an organization that provides counseling, assistance, and support services to survivors of sexual violence free of charge. In addition to providing basic information about the medical and criminal justice systems, advocates connect survivors with community resources and offer emotional support for as long as the survivor wishes.

Discuss with your victim advocate whether communications are privileged or confidential.

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#### ***Victims of sexual assault, human trafficking involving a commercial sex act, or child sexual abuse have the right:***

- To be accompanied by a victim advocate** during any examination or consultation that occurs at the hospital. If you want an advocate and the hospital staff has not already offered to help you find one, ask the examining hospital staff or the hospital social worker for help.
- To exclude a victim advocate** at any time during an examination or consultation that occurs at the hospital. The advocate is required by law to comply with the request.
- To be accompanied by a different victim advocate**, if the hospital has excluded an advocate.
- If a minor, **to request that a victim advocate accompany you without the consent of your parent, guardian, or legal custodian.**
- If a parent, guardian, or legal custodian of a minor who is at least ten years of age, **to request that a victim advocate accompany the minor.**
- To submit a complaint** to the Wisconsin Department of Health Services, Division of Quality Assurance if the hospital does not comply with the Victim Accompaniment Law. *(See complaint contact information on page 2.)*

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#### ***Special Considerations for Minors***

- A minor may request that a victim advocate accompany him or her without the consent of his or her parent, guardian, or legal custodian.
- A parent, guardian, or legal custodian of a minor who is at least ten years of age may request that a victim advocate accompany the minor.
- A treating medical provider may request that a victim advocate accompany a minor who has not attained the age of ten.

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**I have been notified of the above rights and responsibilities regarding the provision of information and services pertaining to victim advocates.**

<b>SIGNATURE</b> <i>(Optional)</i> – Patient (or Legal Rep.)	Name – Patient (or Legal Rep.) <i>(Print clearly.)</i>	Date Signed
<b>SIGNATURE</b> – Hospital Staff Explaining Rights	Name – Hospital Staff <i>(Print clearly.)</i>	Date Signed

## ***Hospital Considerations***

- Hospitals do not have to wait for an advocate to arrive before examining or treating the patient, if the delay would endanger the health or safety of the patient or risk the loss of evidence.
- If a patient wants to be accompanied by an advocate, hospital staff are encouraged to:
  - Give the patient information about how to contact an advocate, if an advocate is not already present.
  - Give the patient the option to call an advocate or call an advocate on the patient's behalf.
  - Maintain current information about local sexual assault victim service providers to fulfill requests made by patients.
- Hospitals may exclude the victim advocate if:
  - The presence of the advocate obstructs the provision of necessary medical care to the patient.
  - The advocate fails to comply with hospital policies governing the conduct of individuals accompanying patients in the hospital.
  - The hospital has knowledge that the victim advocate, in his or her role as a victim advocate at any hospital, has taken one of the following actions and is more likely than not to take that action again:
    - Failed to agree or comply with confidentiality requirements relating to another individual at a hospital
    - Failed to comply with a request by a victim to exclude the advocate
- If a hospital has excluded a specific victim advocate, the hospital shall, at the request of the patient, permit a different advocate to accompany the patient.
- A health care provider may release a portion, but not a complete copy of the patient health care record, to an advocate who is accompanying a patient. It is recommended that patients address any related concerns directly with the advocate.

## **Emergency Contraception**

### ***Hospital Responsibilities***

On March 28, 2008, Wis. Stat. § 50.375, went into effect requiring hospitals that provide emergency services to a female, who reports being sexually assaulted, with certain information and services.

- A hospital that provides emergency care shall ensure that each hospital employee who provides care to a victim has available and conveys to the patient medically and factually accurate and unbiased written and oral information about emergency contraception, its use, and its effectiveness.
- Hospital staff must orally inform the victim of:
  - Her option to receive emergency contraception at the hospital,
  - Her option to report the sexual assault to a law enforcement agency, and
  - Any available options for her to receive an examination to gather evidence regarding the sexual assault.
- Hospital staff must immediately provide the victim emergency contraception upon her request and in accordance with instructions approved by the Federal Food and Drug Administration. If the medication is taken in more than one dosage, the hospital shall provide all subsequent dosages to the victim for later self-administration.
- The hospital is not required to provide emergency contraception to a victim who is pregnant, as indicated by a test for pregnancy.

Emergency contraception means a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device that is approved by the federal Food and Drug Administration and that prevents a pregnancy after sexual intercourse. Emergency contraception does not include a drug, medicine, oral hormonal compound, mixture, preparation, instrument, article, or device of any nature that is prescribed to terminate the pregnancy of a female.

- If the hospital does not comply with these requirements, the patient has the right to file a complaint with the Department of Health Services, Division of Quality Assurance. (*See complaint contact information below.*)

## **Complaint Contact Information**

**Mail:** DHS / DQA / Bureau of Health Services  
ATTN: Complaint Coordinator  
819 N. 6th St., Room 609-B  
Milwaukee, WI 53203

**Telephone:** 608-266-8481

**Toll Free:** 800-642-6552

**Online:** <https://www.dhs.wisconsin.gov/guide/complaints.htm>